REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed July 16, 2003. In the Office Action, the Examiner notes that claims 10-13, 15-18, and 20-29 are pending, of which claims 10-13, 15-18 and 20-29 stand rejected. By this response, claims 10, 17, and 23 have been amended, claims 11-13, 15-16, 18, 20-22, and 24-29 continue unamended, and claims 1-9, 14, and 19 are cancelled.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all these claims are now in allowable form.

It is to be understood that the Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant responsive amendments.

REJECTIONS

35 U.S.C. §103

Claims 10-13, 15-18 and 20-29

The Examiner has rejected claims 10-13, 15-18 and 20-29 as being obvious under 35 U.S.C. §103 over Shaw et al. (U.S. Patent No. 6,104,39[illegible], issued August 15, 2000, hereinafter "Shaw") in view of Utsumi (U.S. Patent No. 6,19[illegible]5,677, issued February 27, 2001, hereinafter "Utsumi"). The Applicants respectfully traverse the rejection.

In particular, claim 10 recites:

> " A method of adapting asset delivery within a heterogeneous multimedia video-on-demand distribution system having service provider equipment and at least one set top terminal, comprising the steps of:
>
> determining at the service provider equipment, for each set top terminal (STT) requesting a session for video content in the multimedia video-on-demand distribution system, a capability level of said STT and a capability level of the distribution network;
>
> selecting, from a plurality of available video content and navigational asset versions stored on said service provider equipment,

> one of said versions of video content and navigation l assets appropriate to said capability level of said STT; and
>
> providing, via at least one of a plurality of tran mission channels, said selected video content and navigational assets n response to STT communications indicative of a need for said video c ntent and assets, said navigational assets comprise video information, graphics information, and control information, and wherein said STT beinc configured to selectively tune, downconvert, and depacketize said ideo content and assets received via said transmission channels." (en phasis added).

The test under 35 U.S.C. §103 is not whether an improvem nt or a use set forth in a patent would have been obvious or non-obvious; rather the te t is whether the claimed invention, considered as a whole, would have been obvio s. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lc nb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986). M oreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added).

Neither the Shaw reference nor the Utsumi reference, eith r singularly or in combination, teach the Applicants' invention as a whole. In partic lar, the Shaw reference discloses:

> "In a client-server architecture, an Adaptive Internet Protocol (AIP) system, comprised of a display engine operating on a serve and a protocol engine operating on a server, providing means to support s andard graphics based computer applications connected to clients o varying capability via a network of varying bandwidth and latency by auto natically varying the type and number of graphic requests and their netw rking encoding to provide near optimum performance while maintainin the correct visual representation." (See Shaw, Abstract)

Nowhere in the Shaw reference is there any teaching or s ggestion of "selecting, from a plurality of available video content and navigational asset ersions stored on said service provider equipment, one of said versions of video conten and navigational assets appropriate to said capability level of said STT," "providing via at least one of a plurality of transmission channels, said selected video content an navigational assets,"

and "said STT being configured to selectively tune, downconvert, a id depacketize said video content and assets received via said transmission channels." By contrast, the Shaw reference discloses a client server relationship as between a conventional application server and a client device such as a character based o window based or web user interface device. (See Shaw, column 2, lines 21-23). M re specifically, Shaw discloses a client-server network that provides at least one applica ion service for selection by a user via a client device having a display engine ope ating thereon. (See Shaw, column 3, line 66 to column 4, line 2). Nowhere is there an teaching or suggestion of a set top terminal, as defined by the Applicants.

A set top terminal (STT), as defined by the Applicants, is ca able of processing video information streams and associated audio information strea ns provided via at least one of a plurality of transmission channels. In particular, "th STT is configured to selectively tune, downconvert, and depacketize" the user content nd assets provided via at least one of a plurality of transmission channels. As shown i Figure 2 of the Applicants' invention, each receiver 204 and 210 contains a tuner amplifiers, filters, a demodulator and a depacketizer. As such, the set-top terminal se ectively tunes, downconverts, and depacketizes the signals from the cable netw k in a conventional manner (See Specification page 13, lines 16-19). Nowhere in the Shaw reference is there any teaching or suggestion that the client devices of Shaw s lectively tune, downconvert, depacketize or operate in a similar manner as defin d by the Applicants' set -top terminal.

In this instance, the Examiner has impermissibly picked an chose various limitations regarding display engines that determine support of dis lay operations at the client devices, without considering that these client devices are n set top terminals as defined by the Applicants. That is, the client devices of Shaw dis loses that the client devices generally include a PC, a Unix computer, a network com uter, illustratively having a java virtual machine interface to a server having various engines or processors executing thereon. (See Shaw, column 5, lines 40-60 and Figure 1). Accordingly, the Shaw reference discloses client devices that are associated with windows and web browser-type applications, as opposed to the Applicants' inventio , which is a set top

terminal that tunes, demodulates and depacketizes video-on-dema id information from a service provider.

Further, the Utsumi reference fails to bridge the substantial ap as between the Shaw reference and the Applicants' invention. In particular, the Ut umi reference merely discloses a data exchange process that performs a series of processing operations to convert data as an application service into another d ta in correspondence with the attribute of each terminal or communicat n infrastructure. (See Utsumi, column 14, lines 48-52 and Figure 2). Moreover, the terminal type determining section of Utsumi determines the type of user termina (e.g. a large screen desk top PC, a portable small screen sub-notebook PC, and PDA). (See column 14, line 65 to column 15, line 1). In other words, the Utsumi reference also fails to teach or suggest a set top terminal as conventionally known by a person of ordinary skill in the art and as also defined by the Applicants.

Moreover, even if these two references could somehow be operably combined the combination would merely disclose a server providing graphical and video information to a client device such as a PC, PDA, Unix desk top system and the like where a terminal-type determining section provides information to a data exchange process section to perform a series of processing operations to convert data as an application service into another data in correspondence with the attribute of each terminal or communication infrastructure. This is completely different from the Applicants' invention. Specifically, the Applicants' invention is a multimedia video-on-demand (VOD) system that provides video content and navigational information in the form of graphical data, which is sent to a set top terminal that is able to selectively tune, demodulate, and depacketize user content and assets provided via at least one of a plurality of transmission channels.

It is noted that the video-on-demand services, as conventionally known by a person of ordinary skill in the art, include providing such video content (e.g. movies) to the subscribers through the set top terminal such that a subscriber may view such video content and interact with the navigational screen so that the content may be viewed in a VCR-like manner (i.e., having fast forward, rewind, stop, pause, play commands). None

of the devices as described in the Shaw and Utsumi references are considered by a person of ordinary skill in the art as "a set top terminal" that are configured to "selectively tune, downconvert, and depacketize video content and assets received via said transmission channels." Therefore, the Shaw and Utsumi references fail to teach or suggest the Applicants' invention as a whole.

Furthermore, neither the Shaw or Utsumi reference teaches or suggests "selecting, from a plurality of available video content and navigational asset versions stored on said service provider equipment, one of said versions of video content and navigational assets appropriate to said capability level of said STT." That is, the Applicants invention stores various versions of the video content and navigational assets at the service provider equipment. In particular,

> "In response to a user request for particular content, the session controller 145 causes the requested content file to be streamed to the transport processor 150. Additionally, the session controller 145 utilizes the mapping data 145-MD to determine which asset data stream or file (if any) is associated with the requested content stream or file. The session controller 145 causes the associated asset stream or file to be streamed to the transport processor 150 from the asset storage module 125." (see Applicants' specification page 7, lines 22-28, and Fig. 1).

By contrast, the Shaw reference teaches downloading a display engine from the service provider equipment and the appropriate protocol engine translates the standard protocol request into an adaptive internet protocol that the display engine on the client device can display (see Shaw, col. 8, lines 1-25). Nowhere in the Shaw reference is there any teaching or suggestion of storing a plurality of available video content and navigational asset versions on the service provider equipment, where one of the versions is appropriate to the capability level of said STT. Therefore, the Shaw reference fails to teach or suggest the Applicants' invention as a whole.

Furthermore, the Utsumi reference merely discloses a server having a data management section for managing attribute data representing the processing capability such as a CPU capability, a display capability, and a memory capacity of each terminal connected to the server (see Utsumi, col. 15, line 56 to col. 16, line 51). However, nowhere in either reference, either singularly or in combination, is there any teaching or

suggestion of "selecting, from a plurality of available video content and navigational asset versions stored on said service provider equipment, one of said versions of video content and navigational assets appropriate to said capability level of said STT." Therefore, the combined references fail to teach or suggest the Applicants' invention as a whole.

As such, the Applicants submit that claim 10 is not obvious and fully satisfies the requirements under 35 U.S.C. §103 as patentable thereunder. Likewise, independent claims 17 and 23, as amended, recites similar limitations as recited in independent claim 10. As such, the Applicants submit that claims 17 and 23 are not obvious and fully satisfy the requirements under 35 U.S.C. §103 as patentable thereunder. Furthermore, claims 11-13, 15, 18, 20-22, and 24-29 respectively depend, either directly or indirectly, from independent claims 10, 17, and 23 and recite additional features thereof. As such, and for at least the same reasons as discussed above, the Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejections be withdrawn.

Conclusion

Thus, the Applicants submit that claims 10-13, 15-18, and 21-29 are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg or Eamon J. Wall, Esqs. at (732) 530-9404 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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